

Unfavorable Response to HB1320
Criminal Law - Sexual Crimes - Allowing Minor Who is a Previous Offender
to Be in the Presence of Another Minor

Families Advocating Intelligent Registries (FAIR) seeks rational, constitutional sexual offense laws and policies for persons accused and convicted of sexual offenses. We have serious due process concerns with this bill, making the proposed change unconstitutional.

To illustrate these concerns, we are sharing examples of violation of parental rights from the 14th amendment, and three violations of the Void for Vagueness Doctrine which has evolved from the 5th and 14th amendments of the US Constitution. There is a substantial amount of case law behind all of these.

The Fourteenth Amendment guarantees the due process right of parents to direct the care, upbringing, and education of their children.

Could a parent be forbidden from putting two siblings in a crowded family home in the same bedroom? The most diligent parents cannot watch a child 24x7, especially as kids get older and more independent.

Vagueness Point 1: A law must provide fair warning and provide persons of ordinary intelligence a reasonable opportunity to know what is prohibited, so that they may act accordingly.

How can a parent be expected to know everything their child has done? And even intelligent, law-enforcer parents may not know every single sex law on Maryland's books, or recognize every type of offense when they see it.

Vagueness Point 2: A law must provide explicit standards to law enforcement officials, judges, and juries so as to avoid arbitrary and discriminatory application.

This bill sweeps in child behavior that someone else claims a parent or guardian should have known about. And since this does not even require that the child have any sort of traceable record, a neighbor could make an accusation based entirely on a rumor, and there would be no way for either the child or the parent or guardian to produce a defense. Certainly there is no such process written into the bill.

Once an accusation has been made, how would a police officer or judge discern whether a parent or guardian has violated this law? How would the officer or judge know a child committed a sexual offense previously, especially if (as this bill allows) the child has never been adjudicated? It would be far too easy to make assumptions about a child, thus bringing parents under suspicion. Indeed, it would be almost impossible not to apply conscious or unconscious biases based on cultural differences, lifestyles, or skin colors to this situation.

Vagueness Point 3: A vague statute can inhibit the exercise of constitutional freedoms and cause persons to steer far wider from an unlawful zone than if the boundaries of the forbidden areas were clearly marked.

If a parent *IS* aware of this statute, how far would they feel they must go to stay within its boundaries? Is a school bus adequate adult supervision? A busy local or school playground? A sports team locker room? And when would the parent no longer have this potential liability hanging over them?

The above examples should provide ample evidence that HB1320 does not pass constitutional muster. Please return a negative response.

Sincerely,

A handwritten signature in cursive script, reading "Brenda V. Jones". The signature is written in black ink and is positioned above the typed name and title.

Brenda V. Jones, Executive Director
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